



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SATS No. TX-072-FOR; Docket ID: OSM-2020-0006;
S1D1S SS08011000 SX064A000 212S180110;
S2D2S SS08011000 SX064A000 21XS501520]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes administrative revisions to its regulations to update, correct, and clarify existing rules. These proposals change language to gender neutral, update terms and definitions for consistency with existing Federal and State regulations, and correct references internal and external to the document.

This document gives the times and locations where the Texas program documents and this proposed amendment to that program are available for your inspection,

establishes the comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., CDT, [Insert date 30 days after the date of publication in the FEDERAL REGISTER]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the FEDERAL REGISTER]. We will accept requests to speak at a hearing until 4:00 p.m., CDT on [Insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SATS No. TX-072-FOR, by any of the following methods:

- *Mail/Hand Delivery:* Joseph R. Maki, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629.
- *Fax:* (918) 581-6419
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM-2020-0006. If you would like to submit comments go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Texas program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Tulsa Field Office, or the full text of the program amendment is available for you to review at www.regulations.gov.

Joseph R. Maki, Director

Tulsa Field Office

Office of Surface Mining Reclamation and Enforcement

1645 South 101st East Avenue, Suite 145

Tulsa, Oklahoma 74128-4629

Telephone: (918) 581-6430

Email: jmaki@osmre.gov

In addition, you may review a copy of the amendment during regular business hours at the following location:

Surface Mining and Reclamation Division

Railroad Commission of Texas

1701 North Congress Avenue

P.O. Box 12967

Austin, Texas 78711-2967

Telephone: (512) 463-6900

FOR FURTHER INFORMATION CONTACT: Joseph R. Maki, Director, Tulsa Field Office. Telephone: (918) 581-6430, email: jmaki@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Texas Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the **Federal Register**, 45 FR 12998 (February 27, 1980). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated August 28, 2020 (Administrative Record No. TX-708), Texas sent

us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Texas proposes to revise its regulations at 16 Texas Administrative Code (TAC) section 12 to update, clarify, and correct existing rules.

1. Changes to §§ 12.3(89), 12.3(122), and 12.679 make the language gender neutral.
2. Twenty changes within the document were made to update terms for consistency with the relevant Texas licensing boards. “Registered professional engineer” and “geologist” are no longer used.
3. Changes in § 12.4 ensure that the regulation is consistent with the Texas Administrative Procedure Act (Texas Government Code Chapter 2001), which requires a written decision within 60 days from receipt of the petition, rather than 90 days as required by the Railroad Commission of Texas’s current rule and the Federal counterpart.
4. Changes to § 12.106(b), so that an application for renewal is filed at least 120 days before the expiration of the permit and is better aligned with the Federal counterpart regulation and State statute.
5. The clarifying change to § 12.108 ensures that permits are updated to reflect current bonded acreage after a hearing to release acreage from reclamation.
6. Changes to §§ 12.121 and 12.161 add a requirement to provide the permit’s expiration date.

The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR

732.15. If we approve the amendment, it will become part of the Texas State program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final program will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to request or speak at a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CDT on [Insert date 15 days after date of publication in the FEDERAL REGISTER]. If you are disabled and

need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules.

Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Alfred L. Clayborne, Regional Director

Interior Regions 3, 4 and 6

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